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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,352	12/04/2001	Brian L. Dallman	87354.2900	9742

7590 09/09/2004

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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/000,352

Applicant(s)

DALLMAN ET AL

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-9,11 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) 18-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4-9,11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/10/2004 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Since independent claim 4 positively recited that each bracket engages the slotted strips and each bracket having a first end that receives and supports the frame (i.e., one end of the bracket supports the frame and another end of the bracket engages the slotted strips), and since claim 7 depends from claim 4, the limitation in claim 7 of the bracket having a first end that supports the frame and a second end that is connected to a slide (i.e., one end of the bracket supports the frame and another end of the bracket engages a slide) do not have supported in the drawings. Therefore, since claim 7 depends from claim 4, thus includes all the limitations of claim 4, the recitation in claim 7 of the bracket having another end engages both "the slotted strips" and "a slide" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Regarding claim 14, since independent claim 13 positively recited that each bracket having a first end that receives and supports the suspending means and a second end that engages the mounting means (i.e., one end of the bracket supports the frame and another end of the

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bracket engages the slotted strips), and since claim 14 depends from claim 13, the limitation in claim 14 of the bracket supports the suspending means and attached to a slide (i.e., one end of the bracket supports the frame and another end of the bracket engages a slide) do not have supported in the drawings. Therefore, since claim 14 depends from claim 13, thus includes all the limitations of claim 13, the recitation in claim 14 of the bracket having a second end engages both “mounting means” and “a slide” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Since independent claim 4 positively recited that each bracket engages the slotted strips and each bracket having a first end that receives and supports the frame (i.e., one end of the bracket supports the frame and another end of the bracket engages the slotted strips), and claim 7 depends from claim 4, the limitations in claim 7 of the bracket having a first end that supports the frame and a second end that is connected to a slide (i.e., one end of the bracket supports the frame and another end of the bracket engages a slide) do not have supported in the drawings. Therefore, since claim 7 depends from claim 4, thus includes all the limitations of claim 4, the specification fails to provide proper antecedent basis for the claimed subject matter in claim 7 of the bracket having another end engages both “the slotted strips” and “a slide”.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 4-9, 11, 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4, the preamble in claim 4 clearly indicates that a subcombination is being claimed, e.g., “An apparatus for supporting an item in a refrigerator cabinet, comprising...” This language would lead the examiner to believe that the applicant intends to claim only the subcombination of an apparatus, the item and the refrigerator cabinet being only functionally recited. However, the refrigerator cabinet is positively recited within the

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body of the claim, such as, “a plurality of slotted strips vertically mounted to the cabinet.” There is an inconsistency within the body of the claim. The preamble indicates subcombination, while in the body of the claim there is a positive recital of structure indicating the combination of an apparatus and a refrigerator cabinet is being claimed. The examiner cannot be sure if applicant’s intent is to claim merely the apparatus or the apparatus in combination with a refrigerator cabinet. Applicant is required to clarify what the claim is intended to be drawn to, and the language of the claim be amended to be consistent with the intent. For the purpose of this examination, the examiner is considering that the claim is drawn to the combination of the apparatus and a refrigerator cabinet. Claim 4, “channel” should be “channels”. Claim 7, since claim 4 already recited the bracket having a first end that supports the frame, the recitation in claim 7 of the bracket having a first end that supports the frame renders the claim indefinite for failing to clearly define whether this first end is the same as the one in claim 4. Claim 13, “channel” should be “channels”. Claim 24, since claim 13 already recited the supporting means comprising a bracket that supports the suspending means, the limitation in claim 14 of the supporting means comprises a bracket that supports the suspending means renders the claim indefinite. Claim 17, since claim 13 recited “a frame”, the recitation of “a frame” in claim 17 renders the claim indefinite for failing to clearly define whether this frame is the same as the one in claim 13.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 2, 4-5, 7-8, and 11, 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 4,138,175 to Tattershall.

In regard to claims 2, 4-5, 7-8, and 11, 13-17, Tattershall discloses an apparatus for supporting an item in a refrigerator cabinet comprising all the elements recited in the above listed claims including (1) a frame/means for suspending the item 60 having peripheral and generally parallel transverse rails, (2) a plurality of slotted strips 12,14 vertically mounted to the cabinet, (3) a plurality of brackets, each having a first end with a generally upwardly facing U-shaped channel (defined by the groove of member 44, such as shown in Fig 5) to receive and support the frame 60, and a second end to engage the slotted strips, (4) a slide guide 50 mounted to the bracket and a slide 62 moves along the slide guide; wherein the slide guide 50 is height adjustably mounted to the cabinet. In regard to claims 2 and 11, an invention is entitled to all the uses to which it can be employed, therefore blood bags can be hung from the frame of Tattershall.

8. Claims 4, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,893,620 to Birgelis.

Birgelis discloses an apparatus for supporting an item in a refrigerator cabinet comprising a frame having rails, such as shown in Fig 14, a plurality of slotted strips 91-92 vertically mounted to the cabinet, a plurality of brackets 94-94' engage the slotted strips and support the frame, wherein the brackets are rigidly attached to the frame, and are adjustably mounted to the slotted strips.

Response to Arguments

9. Applicant's arguments filed 6/10/2004 have been fully considered but they are not persuasive. In response to applicant's arguments on page 8 of the amendment that "Tattershall does not disclose a blood bag support structure for refrigerators", and "Tattershall discloses a freezer organizer structure and slide mechanism only", the examiner takes the position that although Tattershall does not explicitly state a blood bag support structure, the claimed language fails to provide adequate structural limitations in order to distinguish applicant's invention from the structure of Tattershall.

10. In response to applicant's arguments on page 9 that "Tattershall does not disclose a frame having peripheral rails wherein the channel and rails are sized so that the channels support the rails at more than one point along the peripheral rails", the examiner again takes the position that the claimed language fails to exclusively define only the peripheral rails being supported by the channels at more than one point, and Tattershall clearly discloses a frame having peripheral rails wherein the channel and rails are sized so that the channels support the rails at more than one point along the peripheral rails.

11. In response to applicant's arguments on page 10 of the amendment that "Birgelis does not disclose a blood bag support structure for refrigerators", and "Birgelis discloses a shelf system for a refrigerator only", the examiner takes the position that although Birgelis does not explicitly state a blood bag support structure, the claimed language fails to provide adequate structural limitations in order to distinguish applicant's invention from the structure of Birgelis.

12. In response to applicant's arguments on page 10 that "Birgelis does not disclose a frame having peripheral rails wherein the channel and rails are sized so that the channels support the

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rails at more than one point along the peripheral rails or a generally upwardly facing U-shaped channel that receives and supports the frame”, the examiner again takes the position that the claimed language fails to exclusively define only the peripheral rails being supported by the channels at more than one point, and Birgelis clearly discloses a frame having peripheral rails wherein the channel and rails are sized so that the channels support the rails at more than one point along the peripheral rails, and generally upwardly facing U-shaped channel that receives and supports the frame.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP2000014468 shows structures similar to various elements of applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT

September 7, 2004



Hanh V. Tran
Art Unit 3637